THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25427 of 2006

Dated: 25.01.2007

Between:

K. Durgaiah.

..... PETITIONER

AND

The District Collector, Mahabubnagar, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.25427 of 2006

ORDER:

The petitioner is an Ex-Sarpanch of Khanapur Village, Bijnepally Mandal, Mahabubnagar District. First respondent initiated action under Section 265 of the Andhra Pradesh Panchayat Raj Act, 1994 (the Act, for brevity) against the petitioner. A show-cause notice dated 26.06.2006 was issued to the petitioner alleging that he along with three others misappropriated 263 quintals of rice released for ISL programme. As the petitioner did not submit any explanation, by impugned order dated 13.10.2006, first respondent ordered recovery of an amount of Rs.52,600/- being the share of the petitioner. Third respondent was authorized to recover the amount. This order is assailed in the writ petition.

The learned counsel for the petitioner submits that after receiving the show-cause notice dated 26.06.2006, the petitioner submitted an explanation on 02.09.2006. Again after receiving the impugned order dated 13.10.2006, he sent representation on 04.11.2006 to first respondent bringing to the notice that he already submitted explanation on 02.09.2006. He would, therefore, urge that the impugned order dated 13.10.2006 passed without considering his explanation is without application of mind and the same is unsustainable.

The explanation/representation dated 04.11.2006 submitted by the petitioner would not render the impugned order illegal or vitiate the same on any ground. No proof is produced before this Court to show that the petitioner submitted explanation on 02.09.2006 after receipt of the show-cause notice dated 26.06.2006. Even otherwise as seen from the show-cause notice dated 26.06.2006, the petitioner was asked to submit explanation within fifteen days from the date of receipt of said notice whereas the petitioner allegedly sent explanation on 02.09.2006 very much beyond the time given for submitting the explanation. Therefore, this Court is not inclined to go into this question. However, the petitioner is given liberty to prefer an appeal under Sub-Section (3) of Section 265 of the Act before the Commissioner of Panchayat Raj, if so advised. In such an event, the appellate authority may consider the appeal without reference to this order.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

25th January, 2007

ghn